

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**GENX INTERNATIONAL, INC. and  
IVFONLINE.COM, LLC,**

**Plaintiffs,**

**V.**

**JEREMY JOHNSON and  
REPROMEDIX CORP.,**

**Defendants.**

**CIVIL ACTION NO. 05-CV-10419(DPW)**

**APRIL 17, 2006**

## **PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY**

Pursuant to the Court's Scheduling Order (Doc. 19) dated October 10, 2005 and modified on February 28, 2006, Plaintiffs request that the Scheduling Order be modified so as to extend by approximately sixty (60) days certain deadlines in this case. This is Plaintiffs' second motion to modify the Scheduling Order.<sup>1</sup> Plaintiffs have communicated with counsel for Defendants and are able to report that Defendants do not oppose this motion. The reasons for this motion are as follows:

1. On March 21, 2006, Plaintiffs' filed a Motion to Compel answers to ten (10) interrogatories and production in response to twenty-eight (28) requests for production previously served on Defendants.

2. On April 4, 2006, Plaintiffs noticed the deposition of Defendant Jeremy Johnson ("Johnson") and the Rule 30(b)(6) deposition of Defendant Repromedix Corp. ("Repromedix") for April 17, 2006 and continuing from day-to-day thereafter until completed.

<sup>1</sup> The first motion to modify the Scheduling Order was a joint motion.

3. On April 11, 2006, Defendants filed a memorandum in opposition to Plaintiffs' motion to compel.

4. Since that time, Plaintiffs and Defendants have agreed to Plaintiffs' proposal concerning Interrogatories 4, 6, and 11 to Johnson, Interrogatories 1, 2, 4, 10, 11 and 12 to Repromedix, Requests for Production 1, 2, 15, 16, 23, 25, 26 and 37 to Johnson and Requests for Production 1, 2, 3, 15, 16, 17, 25 and 30 to Repromedix, as explained at Page 7 of Plaintiffs' Memorandum in Support of Motion to Compel. (Doc. 24). Plaintiffs have therefore agreed to withdraw their Motion to Compel as to those discovery requests. Plaintiffs' Motion to Compel as to the remaining discovery requests remains pending.

5. Plaintiffs seek modification of the Scheduling Order for the purpose of having the benefit of reviewing and analyzing the information to be provided by Defendants as a result of the parties' agreement concerning Interrogatories 4, 6, and 11 to Johnson, Interrogatories 1, 2, 4, 10, 11 and 12 to Repromedix, Requests for Production 1, 2, 15, 16, 23, 25, 26 and 37 to Johnson and Requests for Production 1, 2, 3, 15, 16, 17, 25 and 30 to Repromedix and then deposing Johnson and Repromedix. While Plaintiffs will be going forward with depositions on April 4, 2006, they would like to continue depositions thereafter for the purpose of inquiring about the information to be provided by Defendants. Plaintiffs do not anticipate being able to receive this information, review and analyze the information, and then conduct further depositions<sup>2</sup> prior to the current fact-discovery deadline of May 1, 2006.

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<sup>2</sup> It should be noted that Johnson resides in California, making scheduling his deposition extremely difficult.

6. Plaintiffs also seek modification of the Scheduling Order for the purpose of having the benefit of reviewing and analyzing any information or documents Defendants are ordered to produce by the Court in light of the remaining issues raised by Plaintiffs' Motion to Compel. While Plaintiffs will be going forward with depositions on April 4, 2006, they would like to continue depositions thereafter for the purpose of inquiring about any information Defendants are ordered to produce then deposing Johnson and Repromedix. Plaintiffs do not anticipate being able to receive this information, review and analyze the information, and then conduct further depositions prior to the current fact-discovery deadline of May 1, 2006.

7. Plaintiffs also seek modification of the Scheduling Order for the purpose of allowing the Court to rule on Plaintiffs' Motion to Compel before a fact-discovery deadline passes.

Therefore, Plaintiffs request that the Court modify the Scheduling Order to include the following new deadlines:

1. All trial experts are to be designated and disclosure of information contemplated by Fed. R. Civ. P. 26 provided by the party bearing the burden of proof no later than July 1, 2006, and rebuttal experts no later than July 29, 2006; expert depositions shall be completed by August 28, 2006.
2. Fact discovery is to be completed by July 1, 2006.
3. Motions for summary judgment are to be filed by October 9, 2006, and responses are to be filed within fourteen (14) calendar days thereafter.

4. A further scheduling/status conference is set for November 17, 2006 at 2:30 P.M., or such other date and time as are convenient to the Court. The parties shall file a STATUS REPORT on or before November 10, 2006.

**GENX INTERNATIONAL, INC. and  
IVFONLINE.COM, LLC**

By: /s/ Glenn A. Duhl  
Glenn A. Duhl BBO#653001  
Siegel, O'Connor, O'Donnell & Beck, P.C.  
150 Trumbull Street  
Hartford, CT 06103  
(860) 727-8900  
Fax: (860) 527-5131  
gduhl@siegelconnor.com

**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2006, a copy of the foregoing Plaintiffs' Motion for Modification of Scheduling Order was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Glenn A. Duhl  
Glenn A. Duhl